THE HON'BLE SRI JUSTICE V.V.S.RAO

W.P.No.12631 OF 2007

Dated: 02.07.2007

Between:

M/s IOU Projects (India Pvt. Ltd) rep. by its General Manager (Accounts and admin) Sri Yedlapadi Venkateshwar Rao.

..Petitioner.

And

The Joint Collector, Medak District at Sanga Reddy, Medak District and others. .

..Respondents.

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W.P.No.12631 OF 2007

ORDER:

The petitioner is a company registered under the Companies Act, 1956. The company purchased an extent of Acs.10.00 in survey No.1171 under a registered sale deed, dated 03.02.2006. Similarly, the company also purchased different extents of lands comprised in different survey numbers situated at Ameenpur Village of Patancheru Mandal, Medak District. After purchasing the property, the company made an application to the Mandal Revenue Officer (MRO) on 07.02.2006 requesting for necessary mutation and grant of pattadar passbooks. When the enquiry is pending, it appears that first respondent issued Circular bearing No.D1/7700/2005-1, dated 30.10.2006, purporting to give instructions to the subordinate revenue officers, *inter alia*, directing that if the land at any point of time is registered as a Government land, all such cases should be cleared by the Joint Collector before further enquiry is taken up under the provisions of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). Aggrieved by the inaction on the part of the respondents in not granting mutation/pattadar passbooks, the petitioner company filed the present writ petition.

The learned senior counsel for the petitioner has taken this Court through various provisions of the Act and the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity). He submits that for the purpose of the Act and the Rules, the recording authority, who is competent either to issue pattadar passbooks or alter the entries in the record of rights is MRO, and against an order passed by MRO, an appeal is provided under Section 5(5) of the Act to the Revenue Divisional Officer, and thereafter under Section 9 of the Act the Joint Collector is conferred power and jurisdiction to revise the orders passed by the recording authority as well as the appellate authority. Therefore, he submits that the Circular issued by the Collector on 30.10.2006 is illegal and ultra vires.

There is no denial that the petitioner company made an application to third respondent for mutation. In all probability, the same is kept pending only due to the Circular issued by the District Collector, which is certainly not in accordance with the provisions of the Act and the Rules.

Section 2(10) of the Act defines "recording authority", which means such officer of the Revenue Department as may be notified by the Collector to be the recording authority for the purposes of the Act. Section 3 empowers the recording authority to prepare record of rights and issue pattadar passbooks/title deeds in accordance with the provisions of the Act and the Rules, as soon as may be after commencement of the Act. The power to amend the record of rights at the instance of any person, who acquired right, title and interest in the property either by way of succession, survivorship, inheritance, partition, Government patta, decree of a Court or otherwise any right as owner, pattadar, mortgagee, occupant or tenant of a land, however, vests in MRO. Rule 6 of the Rules makes it clear that it is MRO, who is competent to conduct enquiry as prescribed in the record of rights.

In this case, the petitioner company statedly, purchased agricultural lands admeasuring Acs.25.14 gts under registered sale deeds and submitted application for mutation, in effect it requested for amendment of record of rights. In such event, only MRO is competent.

Section 5(3) of the Act requires MRO to conduct enquiry before carrying out any amendment in the record of rights in the manner prescribed by the Rules. Rule 18(2) of the Rules requires the intimation of acquisition of rights under Section 4 of the Act to be given in Form VI-A appended to the Rules. In this case, petitioner though requested for mutation, in effect asking amendment of record of rights, in which case, the application ought to have made under Form VI-A of the Rules. As and when such an application is made, MRO has to conduct enquiry in accordance with Rules 19 and 20 of the Rules after issuing notice of enquiry in Form VIII, and pass appropriate orders for issue of pattadar passbooks/title deeds or otherwise under Section 5(4) of the Act. The petitioner admittedly did not file any application in Form VI-A. Therefore, liberty is given to the petitioner company to file such application within a period of two weeks from the date of receipt of a copy of this order. As and when such application is filed, third respondent shall conduct enquiry as required under sub-Section (3) of Section 5 of the Act r/w Rules 19 and 20 of the Rules and pass orders

under Section 5(4) of the Act within a period of three months thereafter.

The Writ Petition, with the observations, is accordingly disposed of. No costs.

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V.V.S.RAO, J

Dated:02.07.2007

Note:
Issue CC within one week.

(Bo)
sj